



Atty. Dkt. No. 088245-2354

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Olli-Pekka Pohjola et al.

Title: SECURE UPSTREAM
TRANSMISSION IN PASSIVE
OPTICAL NETWORKS

Appl. No.: 10/717,601

Filing Date: 11/21/2003

Examiner: Hanh Phan

Art Unit: 2613

Confirmation Number: 8207

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT
UNDER 37 C.F.R. §1.705

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant is in receipt of the Notice of Allowance for the above-captioned application. Applicant disagrees with the Determination of Patent Term Adjustment (PTA) under 35 U.S.C. § 154(b) and presents the following facts per the procedure set forth in 37 C.F.R. § 1.705(b) to support their contention that the patent term adjustment should be 1029 days instead of 530 days as calculated by the United States Patent and Trademark Office (PTO).

The Patent Office determined that the patent was entitled to 530 days of PTA. Applicants believe that this PTA determination was made in accordance with the "Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. §154(b)(2)(A)" published at 69 Fed. Reg. 34238 (Jun. 21, 2004). Under that interpretation of the PTA statute, any PTO delay under 35 U.S.C. § 154(b)(1)(A) is deemed to overlap with any 3-year maximum pendency delay under 35 U.S.C. § 154(b)(1)(B), and so, as a practical effect, PTA may be awarded under §154(b)(1)(A) or §154(b)(1)(B), but not both.

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